

CONTRACTING BY NEGOTIATION

TEXT REFERENCE

FEDERAL ACQUISITION INSTITUTE
CURRICULUM OF PROCUREMENT
TRAINING COURSES

CURRENT THROUGH
FAC 90-25

OFFICE OF ACQUISITION POLICY
GENERAL SERVICES ADMINISTRATION

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Source Lists

A source list should include all eligible and qualified concerns that are considered capable of filling the requirements of a particular acquisition.

STEP 1

Determine availability from required sources in descending order of precedence as indicated in Exhibit 1-5.

REQUIRED SOURCES
<div style="border: 1px solid black; padding: 2px; text-align: center;">FAR 8.001</div> <ul style="list-style-type: none"> • Agency Inventory • Excess Personal Property • Federal Prison Industries, Inc. • Products from the Committee for Purchase From People Who Are Blind or Severely Disabled • Stock Programs: GSA, DLA, VA, Agency • Mandatory Federal Supply Schedules • Mandatory GSA Term Contracts (Services) • Mandatory Agency indefinite delivery contracts • Specified sources (i.e., ADP, public utility, etc.) • Optional Use FSS and GSA Term Contracts

Exhibit 1-5

STEP 2

If required source cannot meet the need, prepare justification for non-use.

STEP 3

Prepare commercial source list based on:

- Solicitation Mailing List Application (SF 129)
- Sources provided with Purchase Request
- Existing mailing lists (centralized and hand lists)
- Prior procurements for similar supplies/services
- Directories and other publications
- SBA source list
- QPL lists
- Trade associations
- Responses to synopses
- Advertisements
- Market surveys

FIXED PRICE INCENTIVE (FPI)	COST PLUS FIXED FEE (CPFF)	COST PLUS INCENTIVE FEE (CPIF)	COST PLUS AWARD FEE (CPAF)	COST OR COST SHARING (C/CS)	TIME & MATERIALS (T&M)
Labor or material requirements for the work are moderately uncertain. Hence, the Government assumes part of the risk.	Labor hours, labor mix, and/or material requirements (among other things) necessary to perform are highly uncertain and speculative. Hence, the Government assumes the risks inherent in the contract—benefiting if the actual cost is lower than the expected cost; losing if the work cannot be completed within the expected cost of performance. Some cost type contracts include procedures for raising or lowering the fee as an incentive for the contractor to perform at lower cost and/or attain performance goals.				
A ceiling price can be established that covers the most probable risks inherent in the nature of the work. The proposed profit sharing formula would motivate the contractor to control costs and meet other objectives.	Relating fee to performance (e.g., to actual costs) would be unworkable or of marginal utility.	A objective relationship can be established between the fee and such measures of performance as actual costs, delivery dates, performance benchmarks, and the like.	Objective incentive targets are not feasible for critical aspects of performance. Judgmental standards can be fairly applied. ¹ Potential fee would provide a meaningful incentive.	<ul style="list-style-type: none"> The contractor expects substantial compensating benefits for absorbing part of the costs and/or foregoing fee, or The vendor is a nonprofit entity. 	Costs are too low to justify an audit of the contractor's indirect expenses.
<ul style="list-style-type: none"> A ceiling price. Target cost. Target profit. Delivery, quality, and/or other performance targets (optional) A profit sharing formula. 	<ul style="list-style-type: none"> Target cost. A fixed fee. 	<ul style="list-style-type: none"> Target cost. Performance targets (optional) A minimum, maximum, and target fee. A formula for adjusting fee based on actual costs and/or performance. 	<ul style="list-style-type: none"> Target cost. Standards for evaluating performance. A base and maximum fee. Procedures for adjusting "fee", based on performance against the standards. 	<ul style="list-style-type: none"> Target cost. If CS, an agreement on the Government's share of the cost. No fee. 	<ul style="list-style-type: none"> A ceiling price. A per hour labor rate that also covers overhead and profit. Provisions for reimbursing direct material costs.
Provide an acceptable deliverable at the time and place specified in the contract at or below the ceiling price.	Make a good faith effort to meet the Government's needs within the estimated cost in the Schedule.				Make a good faith effort to meet the Government's needs within the "ceiling price."
Realizes a higher profit by completing the work below the ceiling price and/or by meeting objective performance targets.	Realizes a higher rate of return (i.e., fee divided by total cost) as total cost decreases.	Realizes a higher fee by completing the work at a lower cost and/or by meeting other objective performance targets.	Realizes a higher fee by meeting judgmental performance standards.	If CS, shares in the cost of providing a deliverable of mutual benefit.	
Production of a major system based on a prototype.	Research study.	Research and development of the prototype for a major system.	Large scale research study.	Joint research with educational institutions.	Emergency repairs to heating plants and aircraft engines.
Must be negotiated. Contractor must have an adequate accounting system. Targets must be supported by the cost data.	The contractor must have an adequate accounting system. The Government must exercise surveillance during performance to ensure use of efficient methods and cost controls. Must be negotiated. Statutory and regulatory limits on the fees that may be negotiated. Must include the applicable "Limitation of Cost" clause at FAR 52.232-20 through 23. (CPFF requires justification.)				Labor rate must be negotiated. Must be justified. The Government must exercise appropriate surveillance to ensure efficient performance.
Firm or Successive Targets	Completion or Term.				Labor Hour

Exhibit 4-2

CONTRACT TYPES

As a contract specialist, it is your responsibility to ensure that each contract file includes documentation to show why the particular contract type was selected. Exceptions to this requirement are:

FAR 16.103(d)

1. small purchases
2. contracts on a firm fixed-price basis (other than those for major systems or research and development)
3. awards on the set-aside portion of sealed bid partial set-asides for small business or labor surplus area concerns.



A Determination and Findings is additional documentation that is required for certain types of contracts.

Exhibit 4-9 lists D&F's, other documentation, and/or approval levels required by FAR for each type of contract. Agency procedures and guidelines should be consulted for additional requirements in all cases.

DOCUMENTATION FOR SELECTION OF CONTRACT TYPE			
<u>CONTRACT TYPE</u>	<u>D & F</u>	<u>OTHER DOCUMENTATION</u>	<u>APPROVAL LEVEL</u>
FFP	-	Yes for Major Systems or R & D	See Agency Procedures
FP/EPA	-	Yes	CO
FPI	-	-	-
FPR/P-	-	-	-
FPR/R	-	Yes	HCA
FP/LOE	-	Yes, Over \$100,000	Chief of Contract Office
CPFF	Yes	-	Agency Head
CPIF	-	-	-
CPAF	-	-	-
C/CS	-	-	-
T&M/LH	Yes	-	CO
BOA	-	-	-

Exhibit 4-9

RFP

Clauses Used In Special Situations

At times there are special situations requiring specific contract clauses, for example the following list provides clauses included in RFPs that are expected to exceed \$500,000.

- 52.215-22 Price Reduction for Defective Cost or Pricing Data
- 52.215-23 Price Reduction for Defective Cost or Pricing Data-Modifications
- 52.215-24 Subcontractor Cost or Pricing Data
- 52.215-25 Subcontractor Cost or Pricing Data-Modifications
- 52.215-40 Notification of Ownership Changes

Alternates to FAR Clauses

There are FAR alternates to some contract clauses. For example, the FAR clause on the First Article Approval—Contractor Testing has two alternates. The following decision table shows how to select the appropriate version of the clause.

DECISION TABLE: CLAUSE WITH ALTERNATES	
IF RFP REQUIRES:	THEN USE CLAUSE:
A first article approval and Contractor to conduct the first article test, and:	52.209-3—First Article Approval-Contractor Testing;
Contractor to produce the first article and the production quantity at the same facility, and/or:	Add Alternate I paragraph (h) to the basic clause;
Contractor to purchase material or start production for paragraph (g) of the basic clause before the first article approval,	Substitute Alternate II paragraph (g).

Exhibit 5-3-3

PUBLICIZING

6.1.5 Issue the Solicitation to Interested Parties

After the RFP has been prepared and reviewed for accuracy and completeness, you should initiate the process for release of the RFP. A summary of the steps to be taken in that process are listed below.

STEP 1 Prepare the synopsis.

STEP 2 Forward the synopsis to the U.S. Dept. of Commerce.

(NOTE: It is possible to expedite this process by releasing the synopsis prior to final preparation of the RFP.)

STEP 3 Fifteen days after the notice has been published in the CBD (or 15 days after expiration of the 6/10 day period), release the RFP*:

- To those prospective offerors who have requested it as a result of having read the CBD notice,
- To those firms who are on your solicitation mailing list, including other public agencies, and
- To those firms who request it as a result of other publicizing actions or simply because they know about it and ask for a copy of the RFP.

STEP 4 Maintain a reasonable number of copies of the RFP so that, upon request, potential sources not initially solicited can be mailed or provided copies of the RFP.

STEP 5 Ensure that RFPs involving classified information are handled as prescribed by agency regulations.

STEP 6 If the contracting office is located in the United States and the security classification permits, send RFPs and related correspondence to foreign addresses by international air mail.

FAR 14.205

The RFP — How Many Copies?

Determining the number of copies of a RFP that may be needed will take some thought on your part. The demand for copies might run from a very few (10-20 copies) to many (40-60 copies, or more). To help determine how many copies to prepare, you should consider several factors:

- Historical data as to the response on previous purchases of the same or similar items.

*OF17, Offer Label, may be furnished with each RFP to facilitate identification and handling of proposals.

CHAPTER 10

COST & PRICING DATA & AUDITS

DATA DEFICIENCY

After determining that two of the proposals you received could not be included in the competitive range, you are left with only the WeSell proposal. Unfortunately, you can not use competition now to determine this \$500,000 price to be fair and reasonable and the other methods of price analysis do not produce concrete results. You decide to get cost or pricing data from WeSell to support the proposed price. When you inform WeSell of the need for additional data, WeSell submits a Standard Form 1412 claiming the price offered is based on an established catalog price and does not provide you with the cost or pricing data you requested. Must WeSell comply with your request?

Is this document alone enough to support a fair and reasonable price?

What other data or forms may WeSell have to provide if the Standard Form 1412 is not sufficient?

COURSE LEARNING OBJECTIVES

At the completion of this course, you should be able to:

Overall: Determine the necessity for and obtain certificates of current cost or pricing data.

Determine the need for, request, and review audit reports; resolve questions on audits with auditors.

Individual:

COST & PRICING DATA

10.1.1 Determine whether certified cost or pricing data are required.

10.1.2 Determine whether the offeror is exempt from the requirement to certify data.

10.1.3 Request and obtain data for cost or price analysis.

10.1.4 Identify inaccurate, incomplete, or non-current data and request new data.

10.1.5 Obtain a properly executed Certificate of Current Cost or Pricing Data.

AUDITS

10.2.1 Determine whether to request an audit.

10.2.2 Request the audit.

10.2.3 Assist auditors in obtaining data.

10.2.4 Review the report.

INTRODUCTION TO COST & PRICING DATA

Policy

FAR 15.804-4

Certificates of Current Cost or Pricing Data

“When certified cost or pricing data are required, the contracting officer shall require the contractor to execute a Certificate of Current Cost or Pricing Data.”

This certificate states that the data submitted to the contracting officer to help determine a fair and reasonable price are accurate, current, and complete **as of the date of agreement on price**.

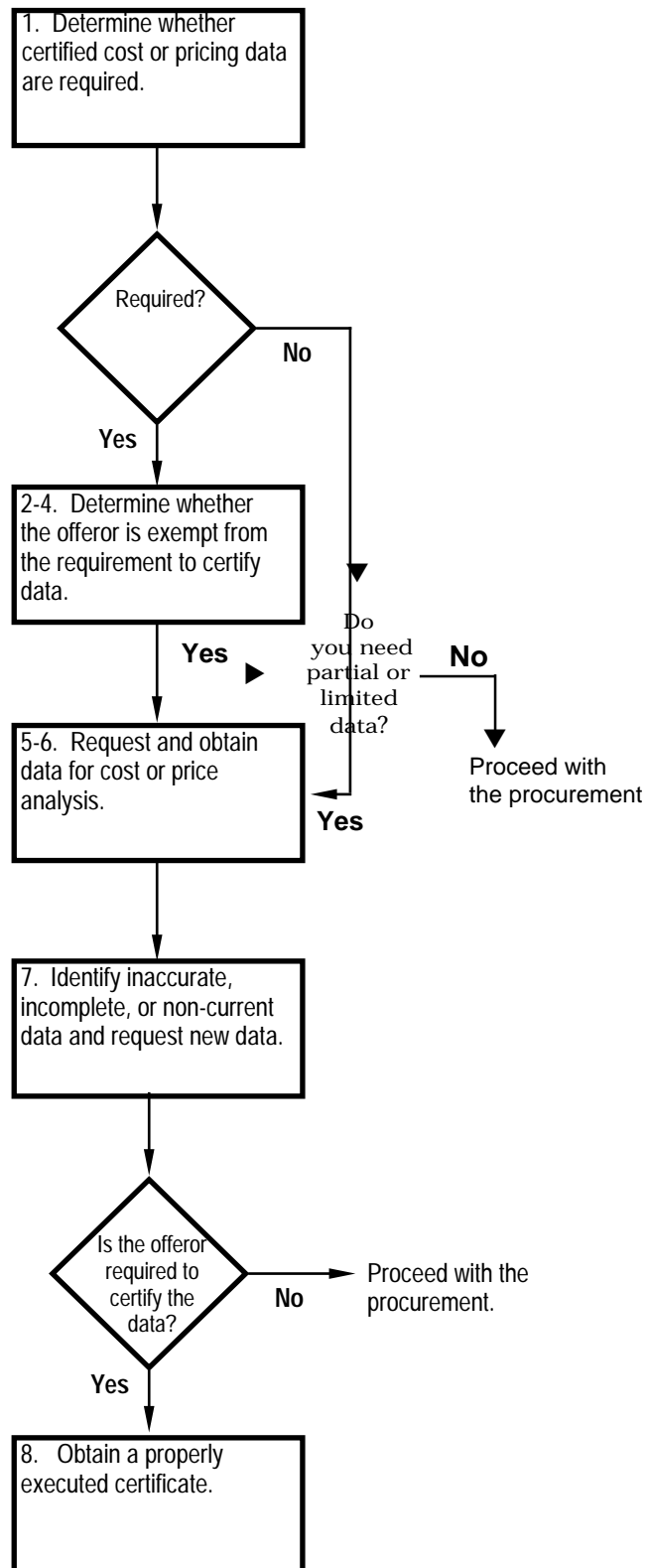
The certification was established to arm the contracting officer with the appropriate information needed to prevent the Government from paying unreasonable prices and to provide a legal obligation for data submission by the contractor.

Steps in Performance

The steps in obtaining certified cost & pricing data are charted on the next page. Following the flowcharts, each step is discussed in turn in Subchapter 10.1.

The flowchart and discussion for obtaining and reviewing audits are found in Subchapter 10.2.

CERTIFICATES OF CURRENT COST OR PRICING DATA



STEPS IN OBTAINING CERTIFIED COST & PRICING DATA

10.1 CERTIFIED COST & PRICING DATA

10.1.1 Determine Need for Certified C & P Data

FAR 15.802

The Truth in Negotiations Act of 1962 requires

1. a prime contractor or any subcontractor to submit and certify cost or pricing data under certain circumstances, and
2. the inclusion of contract clauses that provide for reduction of the contract price by any significant amounts that such price was increased because of submission of contractor or subcontractor defective cost or pricing data.

Cost or pricing data consists of

1. all facts which can reasonably be expected to contribute to making sound estimates of future costs, as well as
2. the evaluation of costs already incurred.

Cost or pricing data is factual information which can be verified.

FAR 15.801

Examples of such data consists of:

- Historical accounting data
- Vendor quotations
- Nonrecurring costs
- Changes in production methods
- Changes in production or procurement volume
- Unit cost trends such as those associated with labor efficiency
- Make-or-Buy decisions
- Other management decisions which could reasonably be expected to have a significant bearing on the costs of the proposed contract.

Unless an exemption is allowed (see 10.1.2), **certified cost or pricing data are required before** accomplishing any of the following actions expected to exceed \$500,000:

FAR 15.804-2(a)(1)

1. Award of any negotiated contract (except for undefinitized actions such as letter contracts),
2. Award of a subcontract at any tier, if the contractor and each higher tier subcontractor have been required to furnish certified cost or pricing data.
3. Modification of any contract or subcontract. (Price adjustment amounts shall consider both increases and decreases.)

FAR 15.804-2(a)(3)

The Contracting Officer may obtain certified cost & pricing data for actions below the threshold provided the action exceeds the small purchase limitation.

CERTIFIED COST & PRICING DATA

Subcontractors

FAR 15.806-2(a)

Contractors* must submit to the Government the certified cost or pricing data of prospective subcontractors in support of each estimate that is

1. \$1,000,000 or more;
2. more than \$500,000 and exceeds the prime contractor's proposed price by 10%; or
3. considered necessary for adequately pricing the prime.

10.1.2 Determine if Exemption Allowed

FAR 15.804-3(a)

Submission or certification of cost or pricing data shall not be required when the contracting officer determines that prices are:

1. Based on adequate price competition,
2. Based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or
3. Set by law or regulation.

Adequate Price Competition

FAR 15.804-3(b)

If price competition exists, you may presume it is adequate unless:

- "(i) The solicitation is made under conditions that unreasonably deny to one or more known and qualified offerors an opportunity to compete;
- (ii) The low offeror has such a decided advantage that it is practically immune from competition;
- (iii) There is a finding...that the lowest price is unreasonable."

A price is based on adequate price competition if it

- results directly from price competition or
- price analysis alone clearly demonstrates that the proposed price is reasonable in comparison with current or recent prices for the same or substantially the same items purchased in comparable quantities, terms, conditions under contracts that resulted from adequate price competition.

Catalog or Market Prices

FAR 15.804-3(c)

Offerors can claim an exemption from submitting certified cost or pricing data **if prices are based on**

catalog or market prices, or regulated prices.



Standard Form 1412, Claim for Exemption from Submission of Certified Cost or Pricing Data, is prescribed for use in helping decide whether a proposal should be exempt. (See Exhibit 10-1.) Information needed to make the determination should be included on this form and submitted by the contractor. Just the submission of an SF 1412 is not enough, however; you will need to verify the claim for exemption.

* that are required to submit certified cost or pricing data

CLAIM FOR EXEMPTION FROM SUBMISSION OF CERTIFIED COST OR PRICING DATA			FORM APPROVED OMB NO. 3090-0116
1. OFFEROR (Name, address, ZIP code)		3. SOLICITATION NO.	
2. DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED		4. ITEM OF SUPPLIES AND/OR SERVICES TO BE FURNISHED	
		5. QUANTITY	6. TOTAL AMOUNT PROPOSED FOR ITEM \$
By submission of this form the offeror claims exemption from requirements for submitting certified cost or pricing data on the basis that the price offered is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public or is a price set by law or regulation (see FAR 15.804-3). Complete Section I, II, or III below as applicable			
SECTION I - CATALOG PRICE (See Instructions for items 7 thru 11 on reverse>)			
7. CATALOG IDENTIFICATION AND DATE		8. SALES PERIOD COVERED	
		FROM	TO
9. CATEGORIES OF SALES	TOTAL UNITS SOLD*	10. REMARKS	
a. U.S., Government sales			
b. Sales at catalog price to general public			
c. Other sales to general public			
* If your accounting system does not provide precise information, insert your best estimate and explain the basis for it in Item 10. REMARKS> Continue on a separate sheet, if necessary.			
11. LIST THREE SALES OF THE ITEM OFFERED			
SALES CATEGORY	DATE	NO. OF UNITS SOLD	PRICE/UNIT
a. <input type="checkbox"/> B <input type="checkbox"/> C			\$
b. <input type="checkbox"/> B <input type="checkbox"/> C			\$
c. <input type="checkbox"/> B <input type="checkbox"/> C			\$
SECTION II - MARKET PRICE (See Instructions for Item 12 on reverse)			
12. SET FORTH THE SOURCE AND DATE OR PERIOD OF THE MARKET QUOTATION OR OTHER BASE FOR MARKET PRICE, THE BASE AMOUNT, AND APPLICABLE DISCOUNTS.			
SECTION III - LAW OR REGULATION (See instructions for Item 13 on reverse)			
13. IDENTIFY THE LAW OR REGULATION ESTABLISHING THE PRICE OFFERED			
REPRESENTATION (See Instructions for Item 14 on reverse.)			
The offeror represents that all statements made above and on attachments submitted are accurate and are submitted for the purpose of claiming exemption from requirements for submitting certified cost or pricing data. The offeror also represents that, except as stated in an attachment, a like claim for exemption involving the same or a substantially similar item has not been denied by a Government Contracting Officer within the last 2 years. Pending consideration of the proposal supported by this submission and, if this proposal or a modification of it is accepted by the Government, until the expiration of 3 years from the date of final payment under a contract resulting from this proposal, the Contracting Officer or any other authorized employee of the United States Government is granted access to books, records, documents, and other supporting data that will permit verification of the claim.			
14. TYPED NAME, TITLE, AND FIRM		15. SIGNATURE	16. DATE OF SUBMISSION

CERTIFIED COST & PRICING DATA

Section I of SF 1412 provides space for the offeror to

1. identify current* catalog prices and information, and
2. attach a copy of the catalog or appropriate pages therefrom.

Section II of SF 1412 provides space for the offeror to identify the

1. source and date or period of the market quotation, or
2. other base for market price, the base amount, and applicable discounts.

Some prices may require special analysis of any added or deleted features. Pricing data requirements will apply to these factors, provided the base price can be determined to be fair and reasonable, based on the market prices. The steps you should follow in analyzing an offeror's claim for exemption are as follows:

STEP 1: Determine if price(s) is an established catalog price.

- regularly maintained by the seller as a catalog, price list, etc.
- published or otherwise available for inspection by customers,
- for which sales are current or were last made to the general public.

STEP 1a: Or determine if price(s) is an established market price.

- as a result of freebargaining between buyers and sellers
- that can be verified from data independent of offeror.

STEP 1b: Or determine if price(s) is based on catalog or market price.

- item is sufficiently similar to catalog or market item, so that
- price difference can be identified without cost analysis.

STEP 2: Determine if item(s) is a commercial item.

- supplies/services used for other than Government purposes, and
- sold or traded regularly to the general public.

STEP 3: Determine if item(s) is sold in substantial quantities.

- supply sales sufficient to constitute real commercial market
- services using regular employees and equipment.

STEP 4: Determine if item(s) is sold to the general public.

- significant buyers other than Government or offeror affiliates, and
- not for Government end use.

* "This period should include the most recent regular monthly, quarterly, or other period for which sales are reasonably available and should extend back only far enough to provide a total period representative of average sales."

In order to quantify substantial sales to the general public, SF 1412 requires that catalog sales information be provided in three categories:

FAR 15.804-3(f)

1. **Category A** sales are items sold to the U.S. Government or to contractors for U.S. Government use (i.e., sales directly to U.S. Government prime contractors, subcontractors, or supplier at any tier, for use as an end item, or as part of an end item by the U.S. Government).
2. **Category B** sales are items sold to the general public at catalog prices.
3. **Category C** sales are items sold to the general public at other than catalog prices.

Normally, then, sales to the general public should be regarded as substantial and an exemption granted if both of the following criteria are met:

- Category B and C sales are not negligible in themselves and comprise 55% or more of the total of Category A, B, and C sales, **and**
- Category B sales total 75% or more of the total of Category B and C sales.

On the other hand, an exemption rarely should be granted if either of the following occurs:

- Category B and C sales total less than 35% of the total of Category A, B, and C sales, **or**
- Category B sales are less than 55% of the total of Category B and C sales.

CERTIFIED COST & PRICING DATA

When percentages fall between those stated above, a thorough investigation must be done before deciding to grant an exemption. Exhibit 10-2 shows how these categories may be used in the exemption.

COST DATA EXEMPTIONS FOR CATALOG PRICING			
SALES CATEGORY COMPARISONS	RARELY EXEMPT If <u>either</u> of the following are true.	REQUIRES INVESTIGATION	USUALLY EXEMPT If <u>both</u> of the following are true.
<u>B + C Sales</u> Total sales (A+B+C)	Less than 35%	35% - 55%	55% or more
<u>B Sales</u> B + C Sales	Less than 55%	55% - 75%	75% or more

Exhibit 10-2

EXAMPLE 1

Alpha Corporation submitted an SF 1412 which contained the information shown below to support a claim for an exemption.

SALES CATEGORIES:

A: U. S. Government	40,000 units
B: Catalog price to the general public	50,000 units
C: Other than catalog price to general public	10,000 units

$$\frac{\text{B + C sales}}{\text{Total sales}} = \frac{50,000\text{u} + 10,000\text{u}}{100,000\text{u}} = 60\%$$

$$\frac{\text{B sales}}{\text{B + C sales}} = \frac{50,000\text{u}}{60,000\text{u}} = 83\%$$

Since both percentages fall within the Usually Exempt range, you would normally grant the claim for exemption.

EXAMPLE 2

Beta, Incorporated submitted an SF 1412 with the following information to support a claim for an exemption:

SALES CATEGORIES:

A: U. S. Government	80,000 units
B: Catalog price to the general public	50,000 units
C: Other catalog price to the general public	10,000 units

$$\frac{\text{B} + \text{C sales}}{\text{Total sales}} = \frac{50,000\text{u} + 10,000\text{u}}{140,000\text{u}} = 43\%$$

$$\frac{\text{B Sales}}{\text{B} + \text{C sales}} = \frac{50,000\text{u}}{60,000\text{u}} = 83\%$$

Since only one of the percentages falls under the Usually Exempt column and the other falls within the Requires Investigation range, you are responsible for getting more information about the commercial item prior to deciding whether an exemption should be granted.

There are many factors to consider when faced with an “investigate” decision.

For example, Category B or C sales may include substantial sales to state, local or foreign governments under circumstances where there may not be a true competitive market place.

If your examination of the conditions under which the sales were made leads you to conclude that a true competitive market place does not exist, your only recourse may be to obtain cost or pricing data.

Another factor to consider during your investigation is alternate products or services which may satisfy the requirement.

For example, assume you are buying 1000 cameras and the purchase request specifies brand X. The vendor quotes a catalog price of \$150 each and tells you:

- 45% of his sales were in Categories B and C, and
- 90% of these were Category B sales.

The catalog shows a price of \$175 each, and his lowest price, in quantities of 100, is \$165.

Step 1: Find out why brand X was specified. You may find the requisitioner has concern for some salient characteristics such as reliability and size. Brands Y and Z will meet all requirements,

CERTIFIED COST & PRICING DATA

but brand X is preferred because it is used in training and has the highest reliability.

Step 2: Investigate Brand Y's catalog price to learn that it is \$149.50 and, like brand X, is sold in substantial quantities to the general public.

Step 3: Investigate Brand Z to learn that it is not a catalog item but was bought in small quantities for \$200 each, based on cost analysis.

Under these circumstances, you could probably conclude the buy is exempt, and \$150 is a good price for brand X.

Regulated Prices

FAR 15.804-3(d)

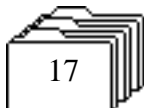
Section III of SF 1412 provides space for the contractor to

1. identify the law or regulation establishing the price offered, and
2. attach a copy of the controlling document (ruling, review, or similar action of a governmental body) unless it was previously submitted.

The contracting officer may grant an exemption and need not require the submission of SF 1412 when:

FAR 15.804-3(e)

1. The Government has acted favorably on an exemption claim for the same or similar items within the past year;
2. Special arrangements have been made for repetitive acquisitions;
3. When you find evidence, before solicitation, that the item has an acceptable established catalog or market price or a price set by law or regulation. Evidence may include:
 - recent submissions by offerors or
 - the contracting officer's knowledge of market conditions, prevailing prices, or sources.



You must record the facts for the basis of your decision to exempt in a memorandum for the contract file.

10.1.3 Obtain C & P Data

FAR 15.804-6



You are permitted to obtain cost or pricing data whenever it is necessary to establish the fairness and reasonableness of prices. When you discover a need for this information, notify the offeror (if not already required by the solicitation) and specify:

- whether certification will be required,
- the form in which the data is to be submitted, and
- the extent of data needed as you may need only partial or limited cost or pricing data in some situations.

For example, if the item purchased is a modification of a commercial item, cost data concerning the modification may be enough to determine reasonableness of price.

To submit the certified cost or pricing data supporting the proposal, the offeror typically uses the SF 1411, Contract Pricing Proposal Cover Sheet, (see Exhibit 10-3). Subcontractors, when applicable, also use SF 1411. With this submission of data, the offeror must furnish a narrative which

- explains the proposal arrangement,
- details the transition from the known, factual data to the estimated price, and
- identifies the added protection for the uncertainties of the future.

Refusal to Submit

The certification of cost or pricing data is a very time consuming and costly procedure, and occasionally offerors refuse to provide or certify it. If required, you can not complete a contract action without this data. You must withhold any pending awards or price adjustments and refer the matter to a higher authority. The agency head or designee has the authority to grant a waiver to the requirement for the submission of the data. However, this is only done in exceptional cases:

For example, the product or service is a priority requirement and this supplier is the only feasible source.

In average situations you would negotiate with an alternate source.

CERTIFIED COST & PRICING DATA

CONTRACT PRICING PROPOSAL COVER SHEET		1. SOLICITATION /CONTRACT/ MODIFICATION NO. NAS1234		FORM APPROVED OMB NO. 9000-0013	
NOTE: This form is used in contract actions if submission of cost or pricing data is required. (See FAR 15.804-6(b))					
2. NAME AND ADDRESS OF OFFEROR (Include ZIP Code) Wesley Electronics 333 Broad Street Alpha, Mississippi 39999		3A. NAME AND TITLE OF OFFEROR'S POINT OF CONTACT		3B. TELEPHONE NO.	
		4. TYPE OF CONTRACT ACTION (Check)			
		<input checked="" type="checkbox"/> A. NEW CONTRACT	<input type="checkbox"/> D. LETTER CONTR.		
		<input type="checkbox"/> B. CHANGE ORDER	<input type="checkbox"/> E. UNPRICED ORDER		
		<input type="checkbox"/> C. PRICE REVISION REDETERMINATION	<input type="checkbox"/> F. OTHER (Specify)		
5. TYPE OF CONTRACT (Check)		6. PROPOSED COST (A+B=C)			
<input checked="" type="checkbox"/> FFP <input type="checkbox"/> CPFF <input type="checkbox"/> CPIF <input type="checkbox"/> CPAF <input type="checkbox"/> FPI OTHER (SPECIFY)		A. COST \$4,098,379	B. PROFIT/FEE \$636,964	C. TOTAL \$4,735,343	
7. PLACE(S) AND PERIOD(S) OF PERFORMANCE Alpha, Mississippi , Aug. X8 - X9					
8. List and reference the identification, quantity and total price proposed for each contract line item. A line item cost breakdown supporting this recap is required unless otherwise specified by the Contracting Officer (Continue on reverse, and then on plain paper, if necessary. Use same headings.					
A. LINE ITEM #	B. IDENTIFICATION	C. QUANTITY	D. TOTAL \$	E. REF	
1.	RT/ARC 1984 Transceiver	50	\$4,735,343	Proposal Summary	
9. PROVIDE NAME, ADDRESS, AND TELEPHONE NUMBER FOR THE FOLLOWING (If available)					
A. CONTRACT ADMINISTRATION OFFICE Defense Logistics Agency (DLA) Alpha MI, 39999		B. AUDIT OFFICE DCAA, Bayou Region, Bayou LO 59999			
10. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS WORK? (If "Yes", identify) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		11A. DO YOU REQUIRE GOVT. CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT? (If "Yes," complete 11B) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		11B. TYPE OF FINANCING <input type="checkbox"/> ADVANCE <input checked="" type="checkbox"/> PROGRESS PAYMENTS <input type="checkbox"/> GUARANTEED LOANS	
12 HAVE YOU BEEN AWARDED ANY CONTRACTS OR SUBCONTRACTS FOR THE SAME OR SIMILAR ITEMS WITHIN THE PAST 3 YEARS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		13 IS THIS PROPOSAL CONSISTENT WITH YOUR ESTABLISHED ESTIMATING AND ACCOUNTING PRACTICES AND PROCEDURES AND FAR PART 31 COST PRINCIPLES (If "No", explain) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
14. COST ACCOUNTING STANDARDS BOARD (CASB) DATA (Public Law 91-379 as amended and FAR Part 30)					
A. WILL THIS CONTRACT ACTION BE SUBJECT TO CASB REGULATIONS? (If "No," explain in proposal) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		B. HAVE YOU SUBMITTED A CASB DISCLOSURE STATEMENT (CASB DS-1 OR 2)? (If "Yes," specify in proposal the office to which submitted and if determine to be adequate) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
C. HAVE YOU BEEN NOTIFIED THAT YOU ARE OR MAY BE IN NON WITH YOUR DISCLOSURE STATEMENT OR COST ACCOUNTING STANDARDS? (If "Yes," explain in proposal) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		D. IS ANY ASPECT OF THIS PROPOSAL INCONSISTENT WITH YOUR DISCLOSED PRACTICES OR APPLICABLE COST ACCOUNTING STANDARDS? (If "Yes," explain in proposal) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
This proposal is submitted in response to the RFP, contract, modification, etc. in Item 1 and reflects our best estimates and/or actual costs as of this date and conforms with the instructions in FAR 15.804-6(b)(2), Table 15-2. By submitting this proposal, the offeror, if selected for negotiation, grants the contracting officer or an authorized representative the right to examine, at any time before award, those books, records, documents and other types of factual information, regardless of form or whether such supporting documentation is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of the proposed price.					
15. NAME AND TITLE (Type) I. M. DeBoss		16. NAME OF FIRM Wesley Electronics			
17. SIGNATURE			DATE OF SUBMISSION 1 July 19X8		
NSN 7540-01-142-9845		1411-102		STANDARD FORM 1411 (REV 7-87) PRESCRIBED BY GSA FAR (48 CFR) 53.215-2(C)	

Exhibit 10-13

10.1.4 Identify Defective Data

Cost or pricing data is defective when it is found to be inaccurate, noncurrent, or incomplete. It can have a serious impact on the contractor as well as the Government.

Preaward

Reviewing the data carefully prior to award will save the Government the time and expense of recovering undeserved dollars at a later time. If you learn that any portion of the data is defective prior to award, you must immediately bring the matter to the attention of the prospective contractor. This is done whether the defective data will increase or decrease the contract price. To ensure a thorough review, you will want to:

- Request that auditors verify data provided by the contractor
- Double check contractor's data during price and/or cost analysis
- Question suspect data during negotiations
- Require submission of corrected data or make allowance for incorrect data.

FAR 15.804-7(b)

Postaward

Whenever the certified cost or pricing data is found to be inaccurate, noncurrent, or incomplete, the Government is entitled to an adjustment of the negotiated price, in accordance with the following two clauses:

52.215-22, Price Reduction for Defective Cost or Pricing Data

52.215-23, Price Reduction for Defective Cost or Pricing Data -
Modifications

10.1.5 Obtain Certificate

At the conclusion of negotiations, you must ensure proper certification for the submitted cost or pricing data received from the offeror. The data should be certified as of the date of final agreement on price. Do not confuse this date with the

- contract award date,
- contract's effective date, or
- date of the contracting officer's signature.



The price agreement date is the date negotiations ceased and is commonly referred to as the day you and the contractor “shake hands.” A properly executed “Certificate of Current Cost or Pricing Data” should be obtained as soon as practicable after that date. Exhibit 10-4 is a copy of the Certificate.

CERTIFIED COST & PRICING DATA

COPY OF CERTIFICATE

FAR 15.804-4(a)

CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.801 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.804-2) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of _____ * are accurate, complete, and current as of _____. **. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm

Signature

Name

Title

Date of execution***

* Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g. RFP No.)

** Insert the day, month, and year when price negotiations were concluded and price agreement reached.

*** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

SUPPORT SYSTEM

The sales information on WeSell's SF 1412 did not support an exemption from submission of cost or pricing data. You notify WeSell and receive the certified data you requested on an SF 1411. After briefly looking it over, you realize you will need assistance in analyzing this information.

What type of assistance is available to you?

What are the proper procedures for requesting this support?

INTRODUCTION TO OBTAINING AUDITS

FAR 15.805-5

The ultimate price or cost analysis is performed by the contracting officer and his immediate staff. However, initial analysis is done by many other employees depending on the agency and the resources available. Personnel such as

- administrative contracting officers
- quality assurance representatives
- small business specialists
- legal specialists
- contract auditors
- price analysts
- engineers

are available to provide field pricing support, which may also include an audit by the cognizant contract audit activity.

FAR 15.801

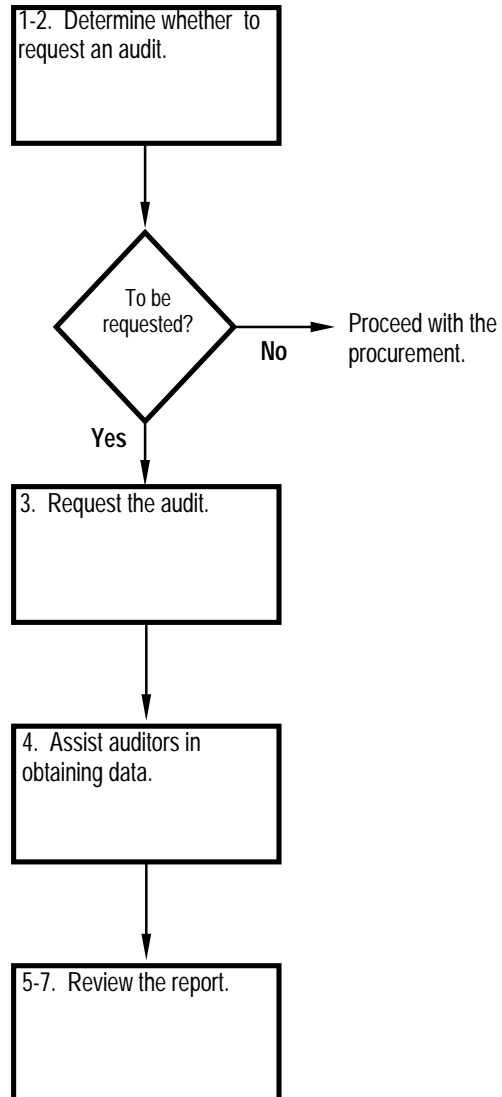
Field pricing support means

“a review and evaluation of the contractor's or subcontractor's proposal by any or all field pricing support personnel.”

Steps in Performance

The steps in obtaining audits are charted on the next page. Following the flowcharts, each step is discussed in turn in Subchapter 10.2.

STEPS IN OBTAINING AUDITS



STEPS IN OBTAINING AUDITS

10.2 AUDITS

10.2.1 Determine Need for an Audit

You should directly request an audit by a cognizant audit office

1. when field pricing support* is not available or is exempted by agency regulations, and additional information is necessary to determine the reasonableness of proposed costs or prices, or
2. to review a request for exemption from need to submit certified cost/pricing data.

Only request audits when required or when the expected benefits from an audit outweigh cost, time, and other factors.

Subcontractors

The following criteria can be used for determining whether to request an audit of subcontractor:

- Business relationship between prime and subcontractor is not independent.
- Prime is sole source and subcontractor's portion of cost is substantial.
- Prime has been denied access to subcontractor's books.
- Contracting officer determines need because of size, etc.

10.2.2 Request Audit

To ensure that you get the data you need to complete your cost or price analysis, bring all significant areas of concern to the auditor's attention when submitting your written audit request. You will want to address the following issues, at a minimum:

- The extent of support needed - Indicate the necessity for a full audit or for less detailed support such as rate verification. The amount and type of data required should help you to determine the degree of assistance.

* Field pricing reports are intended to give you a detailed analysis of the proposal, for use during contract negotiations. Contracting officers are to request a field pricing report before negotiating any contract or modification resulting from a proposal in **excess of \$500,000** when cost or pricing data are required. [FAR 15.805-5]

This report is also required when stipulated by agency policy or when prices cannot otherwise be reasonably analyzed.

AUDITS

- Specific areas for which input is required.
Examples include:
 - direct labor rates
 - indirect cost pool compositions
 - indirect cost projections
 - distribution of facilities capital
 - facilities capital cost of money factors
- Information needed to perform review
Examples include:
 - the offeror's proposal
 - applicable portions of the solicitation, particularly those describing requirements and delivery schedules.
- Deadline for receipt of report - A deadline set for approximately 30 days after submission of your request is typical. Avoid unrealistic deadlines as they may reduce the quality of the audit and make it impossible to establish the fairness and reasonableness of the price.

10.2.3 Assist Auditors in Obtaining Data

FAR 52.215-2

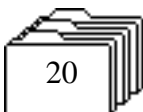
Only auditors have general access to an offeror's books and financial records. The Audit-Negotiation clause gives the Government the right to audit. Usually, auditors have an offeror's full cooperation when obtaining data; however, there are occasions when less willing offerors are encountered. In this event, follow the following steps:

STEP 1: You will receive oral notification, followed up in writing, if an auditor is denied access to an offeror's records or is provided cost or pricing data which is too deficient to apply.

STEP 2: You should immediately contact the offeror upon receipt of this written notification and attempt to secure the data and/or elicit corrective action.

STEP 3: If the offeror persists in refusing to provide the data, and the data is essential for fair and reasonable price determination, you must withhold the award or (price adjustment) and refer the contract action to a higher authority.

STEP 4: Document the details of the attempts made to resolve the matter and a statement of the practicability of obtaining the supplies or services from another source.



10.2.4 Review the Report

FAR 15.805-5(e)

As a minimum, the audit report shall include the following:

- Findings on specific areas listed in the contracting officer's request.
- Offeror's basis and method used for preparing the proposal.
- Inventory of all submissions of cost or pricing data.
- Significant cost/pricing data not submitted but known to the auditor.
- Cost/pricing data which are not accurate, complete, and current; cost representations that are unsupported.
- Quantification of dollar effect of technical analysis findings.
- Assessment of offeror's estimating and accounting systems.
- Extent to which auditor has discussed discrepancies or mistakes of fact in the proposal with the offeror.

FAR 15.805-5(k)

Be sure to obtain with the report a list of all persons who have been provided access to proprietary or source selection information.

After receiving the field pricing and/or audit reports, you will want to review them. While performing your review, do the following:

- Extract relevant facts.
- Identify missing or insufficiently documented findings of fact.
- Identify any fallacies (quantitative or logical) in the auditor's report.
- Identify inconsistencies between audit findings and other available data (e.g., from proposal or market research).

Understanding the reports before completing your cost or price analysis is important. Free and open communication between you, the cognizant auditor, and the administrative contracting officer is not only encouraged but advised. Do not delay in contacting the audit agency or field pricing office to:

- Resolve any questions with the report.
- Submit any new information to the price analyst and/or auditor for review and possible issuance of supplemental report.
- Invite the auditor and/or price analyst to be on negotiation team.



Audits are considered advisory reports. After reviewing your own research and the input from other sources, you may discover that you take exception to some of a report's findings and recommendations. If your negotiation objectives deviate from the auditor's advice, document your rationale for each difference.

STEPS IN DETERMINING RESPONSIBILITY

14.1 Review List of Excluded Parties

As a part of your responsibility determination, you must refer to the “list.” The “list” is the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

These lists are compiled, maintained, and distributed by the GSA. Agencies shall not, unless the acquiring agency’s head or a designee determines that there is a compelling reason to do so:

- Solicit offers from,
- Award contracts to, or
- Consent to subcontracts with

prospective contractors on these lists.

Excluded parties are also precluded from conducting business with the Government as agents or representatives of other contractors. Exhibit 14-1 lists several causes for exclusion.

Review the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs

- to ensure that any prospective contractors have not been excluded from competing for your RFP and
- just prior to award, to ensure proposed awardee hasn't been added.

FAR 9.405(d)

However, an excluded party may submit an offer under a new corporate title. You can detect and exclude these parties through such means as comparing the names of the corporate officers of the offeror against names of the corporate officers of parties on the Excluded Lists. GSA has automated the Excluded List and included the facility to search on such things as the names of corporate officers (see GSA's User's Manual to the Lists of Parties Excluded From Federal Procurement Or Nonprocurement Programs).

FAR 9.404(d)

FAR 52.209-6

In addition, review List to ensure that no proposed subcontractor, for any subcontract subject to Government consent, has been excluded. If a subcontractor is on List, notify the offeror in writing and obtain a different, more acceptable subcontractor to be eligible for award.

FAR 9.405-1

"Notwithstanding that a prospective contractor may be on these lists, agencies may continue [or place orders against] contracts or subcontracts in existence at the time the prospective contractor was found to be on these lists, unless the agency’s head or a designee directs otherwise."

If there are compelling reasons for renewing or extending current contracts with an excluded contractor, state such reasons in a justification proposed for signature by the agency head or a designee.

sanitation. Meeting sanitation standards is a FAR requirement for offerors supplying food stuffs.

New firms are not necessarily barred from competing on this type of RFP, since the experience of the firm's principal officers may be considered. Also, unless prohibited by the terms of the RFP, a specialized experience requirement may be met through a subcontractor.

14.5 Determine Responsibility of Small Business Concern

FAR 19.601(a)

In general, the standards and procedures used to determine the responsibility of small business concerns are the same as those used to determine the responsibility of large businesses. However, if the CO (including those located overseas) determines that a U. S. small business concern is not responsible relative to a particular procurement, the matter must be referred to the Small Business Administration (SBA) for a final decision. The SBA will then notify the concern and offer it the opportunity to apply for a Certificate of Competency (COC). If the concern applies for a COC, the SBA (local Regional Office) investigates the matter. A COC is a certificate issued by the SBA stating that the holder is responsible (see standards in Exhibit 14-7 and any special standards) for the purpose of receiving and performing **a specific Government contract**.

B-242397

Upon deciding and documenting that a responsive small business lacks certain elements of responsibility, the CO shall proceed as follows:

WHEN THE CO DETERMINES THAT A SMALL BUSINESS IS NONRESPONSIBLE

FAR 19.602-1

The CO shall proceed as follows:

- Withhold contract award; and
- Refer the matter to the cognizant SBA Regional Office in accordance with agency procedures, except that referral is not necessary if the small business concern is:
 - Determined to be unqualified and ineligible to receive an award under applicable laws and regulations, provided that the determination is approved by the chief of the contracting office; or
 - Is on the Lists of Parties Excluded from Federal Procurement or Non-procurement Programs.

Exhibit 14-8

CONTRACTING OFFICE CONTRACT FILE* CHECKLIST

1. Purchase request & acquisition plan
2. Justifications & Approvals, and Determinations & Findings
3. Evidence of availability of funds
4. Synopsis in CBD
5. List of sources solicited and those denied solicitation
6. Set-aside decision
7. Government estimate of contract price.
8. RFP and any amendments thereto
9. Security requirements and clearances
10. Each offer or quotation, the related abstract, and record of determinations concerning late offers.
11. Contractor's contingent fee representation and other certifications and representations.
12. Preaward survey reports
13. Source selection documentation.
14. Contracting officer's determination of the contractor's responsibility
15. Small Business Administration Certificate of Competency.
16. Records of contractor's compliance with labor policies including EEO policies.
17. Cost or pricing data and Certificates of Current Cost or Pricing Data or a required waiver.
18. Packaging and transportation data.
19. Cost or price analysis.
20. Audit reports or reasons for waiver.
21. Record of negotiation.
22. Justification for type of contract.
23. Authority for deviations from regulations, statutory requirements, or other restrictions.
24. Required approvals of award and evidence of legal review.
25. Notice of award.
26. Original signed contract or award; all contract modifications; and documents supporting modifications executed by the contracting office.
27. Synopsis of award or reference thereto.
28. Notice to unsuccessful quoters or offerors and record of any debriefing.
29. Acquisition management reports.
30. Bid, performance, payment, or other bond documents, or a reference thereto; notices to sureties.
31. Report of postaward conference.
32. Notice to proceed, stop orders, and any overtime premium approvals granted at the time of award.
33. Documents modifying normal assignment of contract administration duties and responsibility.
34. Approvals or disapprovals of requests for waivers or deviations from contract requirements.
35. Rejected engineering change proposals. These may be filed separately for early disposal.
36. Royalty, invention, and copyright reports (including invention disclosures) or reference thereto.
37. Contract completion documents.
38. Documentation regarding termination actions for which the contracting office is responsible.
39. Cross-references to pertinent documents that are filed elsewhere.
40. Additional documents on which action was taken or that reflect actions pertinent to the contract.
41. Chronological list of awarding and successor contracting officers including dates.
42. All procurement integrity certifications.
43. Record of all persons authorized to have access to proprietary or sources selection information.

* Per FAR 4.802(f), contract files may be retained in any medium: paper, electronic, microfilm, etc.

ment. Make sure the Commercial Product Plan applies to this particular contract (e.g., right time period.)

Contents of Plans

FAR 19.704 (a)

Each subcontracting plan must include:

1. Separate percentage goals for small business concerns and small disadvantaged business concerns; subcontract plans for contracts containing options must separately address goals for both the basic contract and each option.
2. Name of an individual employed by the offeror to administer the program;
3. Description of how the firm will provide subcontracting opportunities (e.g., SBA Procurement Automated Source System*);
4. Assurance the offeror will include the:
 - Utilization of Small Business Concerns and Small Disadvantaged Business Concerns clause in all subcontracts having subcontracting opportunities, and
 - Small Business and Small Disadvantaged Business Subcontracting Plan clause in all subcontracts (except small business concerns) over \$500,000.
5. Assurances the offeror will fulfill reporting requirements, and cooperate in any required studies of surveys;
6. A list of the types of records the contractor will maintain to demonstrate compliance with the subcontract plan.

16.1.2 Research Subcontracting Potential

To review and evaluate the plan, you must explore the subcontracting potential. Conduct factfinding on the subcontracting plan with help from the SBA resident procurement center representative and/or the Director of Small and Disadvantaged Business Utilization (SADBU), to obtain information on such matters as:

- Offeror's past performance in awarding subcontracts for the same or similar products or services to small and small disadvantaged businesses.
- Offeror's overall past performance in awarding subcontracts to small and small disadvantaged businesses.
- Offeror's make or buy program, in terms of identifying potential conflicts with the proposed subcontracting plan.
- Subcontracting potential, given the offeror's make or buy policies and programs, the nature of the products or services to be subcontracted, the known availability of small and small disad

* PASS may be relied on as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a SB source list.

FAR 15.1001(b)(2)

B-243805



Small Business Offerors

In a small business set-aside, each unsuccessful offeror must be notified, in writing, of the name and location of the apparent successful offeror. This "loser letter" should also state that the ① Government will not consider subsequent revisions of the unsuccessful proposal and ② that no response is required unless a basis exists to challenge the small business size status of the apparently successful offeror (does the contractor meet the criteria established by the SBA?)

Agency Public Liaison Office

For contracts with high public and political interest, it may be necessary to inform your agency public liaison office of an impending award. This pre-award notice will provide sufficient time to allow the appropriate agency or Congressional official to prepare for announcing the award.

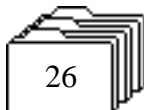
FAR 5.303 (a)

Public Announcement

You must make information available on awards over \$3 million (unless another dollar amount is specified in agency acquisition regulations) in sufficient time for your agency to announce it by 5:00 p.m. Washington DC time on the day of the award. Exceptions include 8(a) contracts, foreign contracts, and national security actions.

16.2.3 Execute Contract(s)

FAR 4.101



Award is made by:

- Contracting officer signing the award portion of the Standard Form 33, "Solicitation, Offer and Award."
- If however, an offer is changed so that it results in the need for a new, bilateral award document, the SF 26 "Award/Contract" is normally used, and both the offeror and the contracting officer sign it.
- In some circumstances, such as contracting for construction, other forms may be required.
- Contracts may also be made by issuing a Notice of Award.

FAR 15.1002

The award is completed by mailing or otherwise providing a properly executed award document to the successful offeror. If a partial award is made and additional items are being withheld for subsequent award, the offeror must be advised that additional awards may be made within the offer acceptance period.

It is common practice to acquire certain supplies and/or services off "Schedules" from agencies such as

- General Services Administration,
- Defense Logistics Agency,
- Veterans Administration,
- Office of Personnel Management.

In addition, you may be required to acquire specific products or services from "specified sources" such as

- Federal Prison Industries Inc.,
- Qualified Nonprofit Agencies for the Blind or other Severely Disabled, and
- Government Printing Office.
- Sole source awards under the 8(a) Program.

The DOD and civilian agencies generally buy brand name commercial products that are preferred by customers of the selling activity for resale at their respective commissaries and/or base exchanges.

FOR EXAMPLE:

A requirement for data entry must be procured from Federal Prison Industries, Inc.

☞ **NOTE:** Although these sources have been identified by a statute, you may obtain a waiver if the source cannot meet the agency's need (e.g., timely delivery, economically priced, minimum specifications).

National Security

If national security applies to a procurement, the purchase request or subsequent documentation should indicate this designation. This authority can be used when it can be clearly demonstrated that:

"Disclosure of the agency's need would compromise the national security unless the agency is permitted to limit the number of sources."

Some situations that may apply to this authorization are:

- Covert operations
- Research and development
- Weapon systems

FOR EXAMPLE:

The requirement is for the "black box system" to enhance missile